

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RONALD ORTH, et al.,

Plaintiffs,

v.

Case No. 07-C-149

WISCONSIN STATE EMPLOYEES UNION
COUNCIL 24, et al.

Defendants.

ORDER

Following a successful appeal, plaintiff has filed two motions to clarify the judgment. The first motion asserts that, during the appeal, the Defendants told them that Mrs. Orth would have no rights to participate in the union's health insurance program if Mr. Orth predeceases her. Plaintiffs also assert that Defendants told them they will cease contributing any funds to their health coverage once Mr. Orth's sick leave account is exhausted. The second motion for clarification asserts that Defendants have further taken the position that once the sick leave account is exhausted, the Plaintiffs will not be able to participate in the plan under any circumstances. Plaintiffs claim that these are entirely new positions taken by the Defendants, making clarification of the judgment advisable.

Plaintiffs have not cited any principle of law or rule of procedure that would allow for "clarification" of a judgment under these circumstances. As they admit themselves, these are completely new issues that were never addressed in this case. As such, it is difficult to conceive of

how a judgment may be “clarified” to address issues that were not even before the court at the time the judgment was entered. Typically motion practice after judgment has been entered falls under Rule 59 or 60, but these do not fit the bill when completely new arguments are involved.

Conceivably a motion to amend the complaint to seek declaratory relief could be filed, but at this late stage that might be an awkward method of proceeding. This Court is aware of no bar, however, to the filing of an entirely new complaint seeking exactly the sort of relief now being sought. If the issues require little additional discovery, proceedings in a new action could be expedited. But that is for another time. Presently before me are motions to clarify the judgment, and for the reasons suggested above I conclude that these motions should be denied without further delay.

SO ORDERED this 30th day of January, 2009.

s/ William C. Griesbach

William C. Griesbach
United States District Judge